



Paper No. 11 ✓

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OFFICE OF PETITIONS

In re Application of
Shiomi, et al.
Application No. 09/779,440
Filed: February 9, 2001
Attorney Docket No. 60188-031

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: DECISION ON PETITION
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This is a decision on the "Request for Corrected Filing Receipt" filed October 4, 2001, which is properly considered as a petition to accord the above-identified application a filing date of February 9, 2001.

Application papers in the above-identified application were filed on February 9, 2001. On May 18, 2001, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had been accorded a filing date of February 9, 2001, but that the application was missing the statutory basic filing fee and was without an oath or declaration. In addition, the application including the specification and text of the drawing figures was filed in a language other than English and required an English translation of the specification pursuant to §1.52(d) and substitute drawings in compliance with §§1.84(p) and 1.52(d). This Notice set a two month period for reply, with extensions of time obtainable under §1.136(a).

On July 18, 2001, applicants timely replied with payment of the statutory basic fee, an executed declaration with the surcharge for its late filing, an English translation of the application, 16 sheets of formal drawings in English, a declaration from Natsuko Honjo certifying that the attached document is a true English translation of U.S. Patent Application Serial No. 09/779,440 filed in Japanese, and the fee for filing a non-English specification. However, on September 17, 2001, applicants were mailed an updated filing receipt stating that the application filing date was July 18, 2001.

The Office will accord a filing date to an application meeting the requirements of 35 USC 111(a), even though some or all of the application papers, including the written description and the claims, are in a language other than English and hence does not comply with 37 CFR 1.52. A review of the application file

reveals that the application as filed,¹ though in Japanese, was entitled to and was accorded a filing date of February 9, 2001. Applicants timely and properly replied to the "Notice to File Missing Parts of Application - Filing Date Granted," supplying the required English translations with a declaration attesting to the accuracy of the translations. Accordingly, there does not appear to have been a basis for, and thus, the Office erred in changing the filing date of this application to July 18, 2001.

In view thereof, the petition is GRANTED.

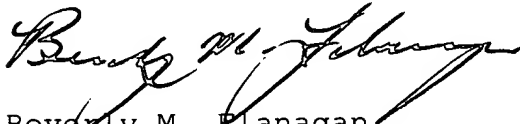
Given the basis for granting the petition, no petition fee is required and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of February 9, 2001, using the application papers received in the Office on that date and the English translations thereof filed July 18, 2001; and
- withdrawal of the updated filing receipt mailed September 17, 2001, and issuance of a corrected filing receipt, in light of this decision and the request for corrected filing receipt filed July 18, 2001, requesting correction to the number of claims noted on the filing receipt (Paper No. 10).

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.



Beverly M. Planagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ In support thereof, petitioner submitted a copy of their receipt identifying this application by serial number, itemizing 13 pages of Specification, 5 pages of Claims, 1 page of Abstract and 16 pages of Drawings as being hand-delivered, bearing a United States Patent and Trademark Office receipt date-stamp of February 9, 2001, and lacking any notation of non-receipt of any item listed. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.